

## IN THE COURT OF THE SPECIAL JUDGE: BHUBANESWAR.

PRESENT:-

Sri I.K. Das, LLB  
Special Judge, Bhubaneswar.

T.R No. 20 of 2010

Date of argument- 01.10.13  
Date of Judgment- 03.10.13S t a t e  
Vrs.Bijay Kumar Karati, aged about 30 years  
S/o Udhab Karati, resident of Jagannathpur  
PS: Fategarh, Dist; Nayagarh

....Accused person

Advocate for the prosecution-

Sri N.R. Ray, Addl. P.P. BBSR

Advocate for Accused

Shri G. Rout, Advocate

Offence Under Sections:-

135 of Electricity Act.

J U D G M E N T

The accused stands charged for the offence u/s 135 of Electricity Act 2003.

2. Prosecution has started against the accused on the report of one Nigam Ranjan Panda Jr. Manager, CESU, Jatni II Section before IIC Energy Police Station Khurda on dt.28.7.09. As per the FIR on the same day at about 5 PM, the informant was on routine checking of illegal consumption of electricity at village Sandhapur, he noticed that the accused was availing power supply unauthorizedly by hooking LT. Line by means of one PVC wire. Police registered the case examined the informant and rushed to the spot. A spot map was prepared. The PVC wire used for this hooking, one electric heater and one electric bulb were seized at the spot and witnesses were examined. During investigation of the case it was ascertained that the accused is responsible for

hooking in the electric line and therefore charge sheet is filed against him warranting his trial.

3. Plea of the defence is complete denial to the allegation and of false allegation.

4. Point for determination in this case is whether on dt.28.7.09 at about 5 PM, the accused dishonestly consumed electricity from the L.T. Line by hooking at Village Sandhapur ?

5. Prosecution examined 3 witnesses out of which P.W.1 and 2 are electrical Staff and P.W.3 is the IO of the case.

6. The informant of the case being the Jr. Manager, CESU, Jatni Section has been examined as P.W.2. In his evidence he said that on 28.7.09, he alongwith energy police were on routine checking at village Sandhapur at about 5 PM. One hospital at village Sandhapur was under construction and the contractor was taking unauthorized connection of electric line from the LT line by hooking. Therefore, he lodged FIR marked as Ext.2. In his cross examination, he said that five to six persons were working as labourers in the same building. P.W.1 is the technician posted at energy PS said that he alongwith other staff of electric department noticed the hooking by accused Bijay Karata. He also supported the seizure of PVC wire from the case house. The IO of the case examined as P.W.3 said that during investigation he seized the wire, one electric heater and one bulb and prepared seizure list. The house in question was constructed by Orissa Police Housing Corporation and the accused was supervising the work. His evidence further reveals that the accused was staying in the labour shed and was consuming electricity illegally. In his cross examination, he said the accused and another namely, Bhagaban Dehury were staying in the case house.

7. This being the evidence available on record, learned Addl. PP urged that the evidence is sufficient to hold conviction against the accused and learned counsel for the accused submitted that in absence of material regarding illegal hooking, the accused is entitled for acquittal. Under Sec. 135 of Electricity Act, a person who illegally consumed electricity by hooking and thereby caused loss to the Government is liable for the offence. In the instant case, admittedly, the

police housing corporation was in charge of construction of the house. Some labourers and caretakers were staying in the half constructed house having electrical connection by hooking. The IO has categorically admitted that the accused alongwith another namely, Bhagaban Dehury were staying in the house. There is at all no evidence on record to show that the accused hooked the electric line and unauthorizedly consumed electricity. Nobody has seen when the accused hooked the electric wire. There cannot be any presumption regarding culpability of the accused with the offence as the accused was neither the owner nor the contractor of the case house. Evidence reveals about ten persons being caretaker and labourer were staying in the half constructed house. Under such circumstance, it cannot be said that the accused is exclusively responsible for hooking.

During the course of argument, learned Addl. PP argued that the accused was only present in the case house and therefore, he is responsible for hooking. But, the evidence reveals that about ten persons were present at the spot by the time of detection of the case. I have already observed above tht in absence of any positive evidence regarding direct involvement of the accused in hooking, the case cannot be proved against the contesting accused.

Taking into consideration the available evidence on record I believe that prosecution has miserably failed to prove that the accused is responsible for hooking or he caused the hooking in any manner beyond reasonable doubt. Accordingly, the accused is found not guilty for the offence u/s 135 (1) (a) of Electricity Act, 2003 and is acquitted thereof U/s.248 of Code of Criminal Procedure. He be set at liberty forthwith. His bail bond be canceled and sureties discharged.

8. The seized articles if any be destroyed after four months of appeal period if no appeal is preferred or if appeal is preferred the same be dealt with in accordance with the direction of the Appellate Court.

Pronounced in the open Court to-day the 3<sup>rd</sup> day of October, 2013

Special Judge, Bhubaneswar.

Typed to my dictation and  
corrected by me.

Special Judge, Bhubaneswar.

List of witnesses examined for the prosecution

P.W.1:- Pradyumna Kumar Sethy

P.W.2:- Nigam Ranjan Panda

P.W.3:- Pramod Kumar Jaisingh

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1: Seizure list

Ext.1/1: Signature of P.W.1

Ext.2: FIR

Ext.2/1: Signature of P.W.2

Ext.2/2 : Signature and endorsement of P.W.3

Ext.1/2: Signature of P.W.3

List of exhibits marked for the defence

Nil

Special Judge, Bhubaneswar.